COUNTY OF LOS ANGELES
CHIEF ADMINISTRATIVE OFFICE
713 KENNETH HAHN HALL OF ADMINISTRATION/LOS ANGELES, CALIFORNIA 90012
974-1101

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SALLY R. REED
CHIEF ADMINISTRATIVE OFFICER

March 1, 1995

Executive Summary

PAYROLL DEDUCTION PROCEDURES AND POLICIES STUDY
(3-VOTES)

Request

-- Approve various changes in payroll deduction procedure and documentation relating to solicitation activities on the part of certified and registered employee organizations.

-- Adopt rules pertaining to the conduct of solicitation activities on County premises.

-- Continue payroll deduction privileges for Godwins, Inc. contingent on this organization remaining a designated representative of a certified or registered employee organization.

Fiscal Impact

Up to $5,000 for the development and production of revised payroll documentation.

Issues

-- On August 17, 1993, your Board approved an amendment to the anti-solicitation ordinance that permits certified and registered employee organizations to market insurance products on County premises. At that time, the Chief Administrative Office, in conjunction with the Auditor-Controller and County Counsel, was instructed to initiate a review of existing payroll deduction policies and procedures that pertain to this activity to determine if the County's interests were being adequately protected.

-- Although existing policies and procedures have resulted in no cost or liability for the County, certain recommended changes would offer better protection against any future claims.

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-- Rules are recommended to establish a uniform and orderly process for the conduct of on-site solicitation activities by certified and registered employee organizations.

-- The Board ordered review included an instruction that the Chief Administrative Officer recommend whether payroll deduction privileges for Godwins, Inc., a private vendor, should be continued. Godwins, Inc. currently markets insurance products on behalf of the Coalition for Benefits Equality and Choice, a registered employee organization. It is recommended that existing payroll deduction privileges be continued as long as this organization retains its registered status and Godwins, Inc. remains its marketing representative.

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SALLY R. REED
CHIEF ADMINISTRATIVE OFFICER

March 1, 1995

The Honorable Board of Supervisors
County of Los Angeles
383 Kenneth Hahn Hall of Administration
500 West Temple Street
Los Angeles, CA 90012

Dear Supervisors:

PAYROLL DEDUCTION PROCEDURES AND POLICIES STUDY (3-VOTES)

On August 17, 1993, your Board approved an amendment to the anti-solicitation ordinance that provides certified and registered employee organizations access to County facilities for the purpose of selling insurance products to County employees. At that time, your Board instructed the Chief Administrative Office, in conjunction with the Auditor-Controller and County Counsel, to initiate a review of the enrollment and payroll deduction procedures that pertain to this type of activity to ensure the County's interests are being adequately protected. Your Board further instructed that the review determine whether there is any revenue potential connected with the payroll deduction process and whether the payroll deduction slot for Godwins, Inc., a private vendor, should be continued. This report contains the results of this review.

Principal Findings

Based on the County's experience before and after the 1993 amendment to the anti-solicitation ordinance, we have concluded that the existing enrollment and payroll deduction process has served the County quite well. There has not been a single incident or claim involving a loss for the County that is attributable to the current system. We have, however, identified a number of changes that would improve the system, administratively, and offer enhanced protection for the County in the event of any future claims. We have also identified a need for rules regarding on-site solicitation that will clarify the rights of both County management and the employee organizations that participate in this process. We see no revenue potential in the payroll system at this time, and we are recommending that the payroll deduction slot for Godwins, Inc. be continued contingent on this organization remaining a marketing representative of a certified or registered employee organization.

Use of Facilities for Solicitation

Virtually every County department has been impacted by the 1993 amendment to the anti-solicitation ordinance. More employee organizations are requesting access to County facilities with greater frequency than ever before. In most instances, solicitation activities are performed by agents of insurance carriers affiliated with the various certified and registered employee organizations, not by the organizations themselves. There are, at present, no standard procedures for requesting access to County facilities and no guidelines pertaining to the conduct of the marketing presentations. Given the level of solicitation activity now taking place and the number of entities involved, we are recommending that your Board establish a set of rules that will create a uniform and orderly process for all groups to follow.

The new rules will clarify the rights of employee organizations to enjoy the access permitted by the anti-solicitation ordinance and the rights of County management to prevent interference with County operations. They will require employee organizations to provide written notice prior to solicitation events and to identify, in advance, the individuals who participate in each event. They will establish the basis on which departmental management may curtail or deny a request, and they will provide for disclosures to employees regarding the affiliation of the marketing representatives to the sponsoring employee organizations. This will include disclosures of non-County endorsement of the products being offered. The details of the recommended rules are shown in Attachment I.

Changes in Documentation

Every employee organization that solicits on County premises must sign a hold harmless agreement before any solicitation takes place. This requirement is expressly stated in the 1993 amendment to the anti-solicitation ordinance. Further, every employee who purchases insurance through an employee organization must authorize payroll deduction payments by signing a "Payroll Deduction Authorization". This document contains additional hold harmless language that protects the County from claims by employees if any payments are not received by the payee in a timely manner.

Although no claims or liability have accrued to the County thus far, we are recommending several changes that will make the process smoother and better immunize the County in the event of future problems. These include assigning to the Chief Administrative Office central responsibility for receiving and monitoring hold harmless agreements from employee organizations and broadening the hold harmless language on Payroll Deduction Authorizations to cover any claim or liability arising from the solicitation process or the products being sold through that process. These changes will also include a re-formatted Payroll Deduction Authorization that will provide more information to employees and the County about the payroll deduction being authorized. The new Payroll Deduction Authorization will include a written disclosure that appropriately disassociates the County from the solicitation process.

Upfront costs for developing and producing the new Payroll Deduction Authorization are estimated at not more than $5,000. We are recommending these costs be charged to the Non-Departmental Special Accounts budget unit. Further details on these recommendations are shown in Attachment II.

Employee Right to Cancel

We have identified occasional instances where employees have experienced difficulty in canceling a payroll deduction for insurance purchased through a non-certified employee organization. The problem stems from the fact that employee organizations are the point of origin for any Payroll Deduction Authorization naming the organization as the payee. The employee organizations know what the employee has purchased, exactly, whether dues payments are required, and how much the total monthly deduction should be. They prepare each Payroll Deduction Authorization and forward the signed documents to the Auditor-Controller. If the employee organization is slow to initiate the paperwork, the whole process is delayed.

The County has thus far been reluctant to alter payroll deduction arrangements between employees and employee organizations without documentation from the employee organizations. However, on further review of this matter, we believe a more assertive role on the part of the County would, under certain circumstances, be consistent with employees' legal rights to exercise control over voluntary deductions from their paychecks. Therefore, we are recommending that, where specifically requested by the employee, departmental management offer to contact non-certified employee organizations to help expedite overdue reductions or cancellations of payroll deduction payments. If that proves insufficient, we are further recommending that departmental management offer to prepare and transmit directly to the Auditor-Controller the documentation necessary to effect the requested change. Such action will only be taken with written permission from the affected employees.

We are also recommending that each department provide a report to the Chief Administrative Office whenever County intervention is necessary. This change will not affect certified organizations where we have not experienced this problem and where, in most cases, we have negotiated maintenance of membership or agency shop provisions. Further detail on this change is also contained in Attachment II.

No Revenue Potential at This Time

State law currently governs the use of payroll deduction slots by county boards of supervisors. Aside from State and Federal withholding, payroll deductions are permitted for County sponsored or County approved employee benefit programs, including retirement benefits, payments to credit unions, contributions to charitable organizations, and contributions to employee organizations. The County is not authorized by statute to use the payroll deduction system for other purposes or to impose fees on employees or recipient organizations to cover expenses for the purposes that are authorized.

Given these constraints, there is no immediate potential for attaching fees to the payroll deduction mechanism or otherwise generating revenue from the payroll deduction process. Any change in this direction would require a change in State law, and any change that would pass costs on to employees or the organizations they support could create significant employee relations issues. Therefore, we recommend that pursuit of this issue be tabled until clear statutory authority exists.

Payroll Deduction Privileges for Godwins, Inc.

Godwins, Inc. is a private for profit organization that has enjoyed a dedicated payroll deduction slot since 1956. Formerly known as Bayly, Martin and Fay, this organization is entitled to solicit on County facilities and receive payments through a payroll deduction slot coded as "BMF260." In September, 1992 the Chief Administrative Office recommended, and your Board approved, the termination of the Godwins, Inc. payroll deduction privilege effective January 1, 1994. In August, 1993, your Board amended this order to delay the termination pending further review of the payroll deduction process by the Chief Administrative Office. The Board order specifically instructed the Chief Administrative Officer to determine if termination would adversely affect employees currently holding Godwins, Inc. insurance policies.

Following the August, 1993 Board action, Godwins, Inc. formed a new organization known as the Coalition for Benefits Equality and Choice. This organization has obtained registered status from the Employee Relations Commission and is currently entitled to the same rights and privileges extended other registered organizations under the employee relations and anti-solicitation ordinances Godwins, Inc. is the marketing representative for the Coalition for Benefits Equality and Choice and all payments made through the BMF260 slot go to the Godwins, Inc. organization. Considering these circumstances, we are recommending the following:

-- That existing payroll deduction privileges for Godwins, Inc. be continued as long as the Coalition for Benefits Equality and Choice remains a registered employee organization and Godwins, Inc. remains their marketing representative. On-site marketing privileges will also be continued consistent with the privileges extended other representatives of registered employee organizations.

-- That payroll deduction privileges be canceled for Godwins, Inc. and the Coalition for Benefits Equality and Choice if, at any point in the future, the Coalition for Benefits Equality and Choice ceases to qualify as a registered organization.

We are further recommending that any cancellation, should it become necessary, be implemented on a strictly prospective basis. In such event, the BMF260 payroll deduction slot would remain intact indefinitely with respect to employees who are Godwins, Inc. policy holders at the time of the cancellation. This would preclude any adverse effect on County employees as a consequence of the cancellation. No further Board action would be required to effectuate this change.

Given the limitations imposed by State law, payroll deduction privileges pertaining to non-County sponsored benefit programs should be limited to bona fide employee organizations, and we believe the Employee Relations Commission certification and registration process is an appropriate test for determining which organizations should qualify. To extend this privilege to other groups or other benefit offerings would arguably create an implied County endorsement of the products being sold and put the County in an untenable position with respect to other vendors who provide similar services and who would like similar access to County employees and the County payroll system.

THEREFORE, IT IS RECOMMENDED THAT YOUR BOARD:

1. Instruct the Auditor-Controller and Chief Administrative Officer, in conjunction with County Counsel, to implement the changes in payroll deduction procedures and documentation set forth in Attachment II.

2. Approve an expenditure of up to $5,000 to be charged to the Nondepartmental Special Accounts budget unit for the purpose of developing and producing a revised Payroll Deduction Authorization form as set forth in Attachment II.

3. Instruct each Department Head to provide assistance to employees requesting adjustments or cancellations in payroll deductions to non-certified employee organizations as outlined in Attachment I.

4. Approve the rules for use of County facilities for solicitation activities set forth in Attachment I.

5. Instruct the Auditor-Controller to continue payroll deduction privileges for Godwins, Inc. subject to the Coalition for Benefits Equality and Choice remaining a registered employee organization and Godwins, Inc. remaining its marketing representative, and instruct the Chief Administrative Officer to provide notice to the Auditor-Controller if either of these conditions changes.

Respectfully submitted,

SALLY R. REED
Chief Administrative Officer

SRR:GAR
PHS:WL:pb

Attachments

c: Executive Officer, Board of Supervisors
County Counsel
Auditor-Controller

SOLICITATION ACTIVITIES BY REGISTERED AND CERTIFIED EMPLOYEE ORGANIZATIONS

RULES FOR THE USE OF COUNTY FACILITIES

Purpose

The purpose of these rules is to establish an orderly, uniform and equitable procedure by which certified and registered employee organizations may gain access to County facilities for the purpose of marketing insurance products to County employees as authorized by Section 13.16.020 of the County Code.

Submission of Request

Any certified or registered employee organization seeking access to a County facility shall submit a written request at least seven days in advance to the Department Head, or his designee having administrative responsibility for the affected facility (hereinafter referred to as the "Building Manager"). Any questions regarding the identity of the Building Manager in a facility occupied by more than one department may be directed to the Chief Administrative Office.

The written request must be signed by an authorized representative of the sponsoring employee organization and must specify the following:

1. The date, time, and location at which the employee organization wishes to conduct the solicitation. This must include the beginning time and an estimate of the ending time.

2. The name, address, and telephone number of the insurance company whose products are to be marketed.

3. The names, company affiliation, addresses, and telephone numbers of the individuals who will perform the solicitation. This must identify the individual who will be in charge of the solicitation activity. Only the named individuals will be deemed authorized to perform the event.

4. A description of the logistics of the solicitation effort sufficient to determine if the requested space is appropriate to the activity.

The Building Manager may waive the requirement for written notification and/or the seven days notice.

General Requirements

All employee organizations engaging in solicitation activities on County premises must comply with the following general requirements:

1. No certified or registered employee organization will be eligible to solicit on County premises unless a duly executed hold harmless agreement is on file with the Chief Administrative Office.

2. No solicitation may interfere with County operations or the public's access to County services.

3. No employee may be solicited during his working hours. "Working hours" for this purpose includes rest periods.

4. All solicitation activities must take place in available space that is considered a public area of a County facility. The Building Manager shall be the final authority in determining the precise location of each solicitation event.

5. A sign shall be prominently displayed at each solicitation site that identifies the sponsoring employee organization. The participants in each solicitation event shall orally communicate the identity of the sponsoring employee organization to each employee who purchases a product at the site and that the County does not endorse or sponsor the product. Additional written disclosures to this effect will be contained on the Payroll Deduction Authorization document provided by the County.

6. With respect to certified employee organizations, any posting or display of flyers of other material relating to the solicitation activity or the products being sold must conform with "Bulletin Board" provisions contained in existing Memoranda of Understanding. With respect to registered employee organizations, no such material may be posted or displayed at any location without prior approval of the Building Manager.

7. No solicitation will be approved if it requires clean-up work, additional security measures, or any other expenditure of County resources.

8. At the Building Manager's discretion, the participants in each solicitation event must report-in and identify themselves to the Building Manager, or any person designated by the Building Manager, upon arrival at the solicitation site and/or must report-in prior to departure

Approval of Request

The Building Manager shall grant the request to use County facilities for solicitation purposes if the employee organization has complied with these rules, if appropriate space is available, and if, in the opinion of the Building Manager, the solicitation activity will not interfere with County operations. In determining whether the activity will interfere with County operations, the Building Manager may consider, among other things, the following criteria:

1. Is the scheduled time and location of the activity consistent with the requirement that no employee be solicited on County time?

2. Will the location of the activity be distracting to employees while on duty.

3. Are the physical requirements of the activity appropriate to the available space?

The Building Manager may terminate any solicitation event already in progress if, in his opinion, the activity is not being conducted in a manner consistent with these rules.

Nothing in these rules shall be construed to limit the rights of certified employee organizations to access County facilities during working hours pursuant to Work Access provisions of Memoranda of Understanding or the authority of the Chief Administrative Officer to grant certified employee organizations access to County facilities during working hours for purposes authorized by the Los Angeles County Employee Relations Ordinance.

RECOMMENDED CHANGES IN PAYROLL DEDUCTION PROCEDURES

Current Practice

Since September 17, 1993, certified and registered employee organizations have been permitted access to public areas of County facilities for the sole purpose of marketing group insurance products to County employees. This privilege extends to any representative of any certified or registered employee organization, including agents or brokers for the insurance companies providing the insurance being marketed. As required by Section 13.16.020 of the County Code, the employee organizations engaged in these activities must sign an agreement that holds the County harmless from any claim that may arise from any on-site solicitation activity or any insurance products sold through such activity. At the present time, new hold harmless agreements are signed each time a solicitation activity takes place.

Employees who purchase insurance from a certified or registered employee organization must sign a Payroll Deduction Authorization. This document provides the Auditor-Controller with the authority and minimum information necessary to execute the payroll deduction. This includes the identity of the payee and the total amount to be taken each month. The Payroll Deduction Authorization does not show any detail relating to the make-up of the deduction amount. It does not, for example, indicate whether multiple insurance products have been purchased, and how much money may be apportioned to each product, and it does not indicate whether organization dues payments are included in the total. It simply indicates one lump sum monthly deduction amount. The Payroll Deduction Authorization also contains hold harmless language designed to protect the County in the event any payments are not received by the payee in a timely manner.

Payroll Deduction Authorizations pertaining to certified and registered employee organizations are normally the result of solicitation activity or other contact between an employee organization and the employee. The document is normally prepared and submitted to the Auditor-Controller by the affected employee organization. Subsequent adjustments or cancellations of Payroll Deduction Authorizations are also prepared and submitted by the employee organizations. Because the employee organizations are in the best position to accurately perform this function, the Auditor-Controller has generally taken the position that all Payroll Deduction Authorizations, including adjustments and cancellations, must originate from the employee organizations. They have been understandably reluctant to receive these documents directly from employees or departmental payroll units

Recommended Changes

1. Require certified and registered employee organizations to submit hold harmless agreements to the Chief Administrative Office once per year.

   Note: The current practice of requiring employee organizations to submit a new hold harmless agreement to departmental management prior to every solicitation event creates unnecessary work for both the County and the affected organizations. It also complicates the process of policing the signatures to make sure only authorized officers of the employee organizations and insurance carriers are entering into these agreements. The Chief Administrative Office will be responsible for collecting and monitoring these agreements and informing the various County departments as to the employee organizations and affiliated insurance providers that are eligible to access County facilities.

2. Instruct the Chief Administrative Officer, in conjunction with the Auditor-Controller and County Counsel, to develop and produce a new Payroll Deduction Authorization document that pertains to both certified and non-certified employee organizations and that reflects the following changes:

   a. Broader hold harmless language that protects the County against any claim, liability, or cost arising from the solicitation process or the insurance products being sold.

   b. New language that requires all employee organizations to disclose the following information on the Payroll Deduction Authorization document:

      1) The identity of the organization sponsoring the program of insurance and the identity of the insurance carrier providing the insurance. This information must include the name, organization, address, and telephone number of the individual the employee should contact with any questions or problems concerning the insurance, including how to cancel the insurance.

      2) An itemization of each charge and each product being purchased and the corresponding monthly payment. This detail will include the name and price of each product and, as a separate item, the cost of organization dues, if applicable. All figures will be reported individually and summed on the payroll deduction authorization. As is the case with the existing Payroll Deduction Authorization document, the new document will include language that permits the County to make adjustments in the payroll deduction amount to reflect changes in premiums or dues payments authorized by the affected employee organizations.

      3) The number of days of lead time required before a change in the insurance coverage, including cancellation, will take effect and be reflected on County pay warrants.

4) A statement affirming the fact that the County does not sponsor or endorse any program of insurance being marketed by any employee organization and is not responsible for any representations made concerning such insurance.

c. The new Payroll Deduction Authorization document shall be produced on multi-part paper with distribution as follows: 1) original to Auditor-Controller, 2) copy to the affected employee organization, and 3) copy to the enrolling employee to be provided at the point of sale. After processing by the Auditor-Controller, the original copy will be forwarded to each employee's department for filing.

d. The recommended changes to the Payroll Deduction Authorization document will be implemented as soon as practicable after necessary consultations with certified employee organizations. The new document will apply to new payroll deduction authorizations and future changes in existing payroll deduction authorizations. Payroll Deduction Authorizations already in force at that point will not be affected.

Note: Item 2. above will not apply to union sponsored insurance coverage purchased through the Choices or Options cafeteria plans.

3. Instruct each Department Head to assist employees who ask for help in reducing or canceling a payroll deduction for a non-certified employee organization. Such assistance shall take the following form:

a. An offer to make telephone contact with the organization on behalf of the employee if the employee indicates he has followed the organization's procedures for canceling or changing a payroll deduction and the organization has been non-responsive.

b. An offer to process directly to the Auditor-Controller the necessary documentation to reduce or cancel the payroll deduction without going through the employee organization if, as in (a) above, the employee indicates he has followed the organization's procedures for canceling or changing a payroll deduction and the organization has been non-responsive. Where a reduction in the payroll deduction amount is being requested, the reduction shall be in the amount designated by the employee. Where applicable, departmental management is to refer to the aforementioned informational detail on the revised Payroll Deduction Authorization documents to assist the employee in this regard.

c. No action under (a) or (b) above is to be taken without prior written request by the employee. Such request is to be made on a form provided by the County.

4. Instruct the Chief Administrative Officer, in conjunction with the County Counsel, to take the following actions in connection with Item 3 above:

   a. Develop and produce the form required under 3(c). This form will stipulate that the County will take no responsibility for validating the correctness of the amount of any adjustment and no responsibility for any unwanted loss of insurance or other undesired consequences that may result from this action. This form will also contain a hold harmless agreement to this effect to be signed by the employee.

   b. Further amend the hold harmless agreement applicable to employee organizations (Item 1 above) to clarify the County's right to take action under 3(a) and (b) above.

5. Instruct each Department Head to report to the Chief Administrative Office all instances where action under Recommendation 3(a) or (b) above is required.